

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**TRENT BROWN,**

**Plaintiff,**

**vs.**

**SAFECO INSURANCE COMPANY  
OF INDIANA,**

**Defendant.**

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**CIVIL ACTION NO.:** \_\_\_\_\_

**DEFENDANT’S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §1446(a) and Local Rule CV-81(a), Defendant Safeco Insurance Company of Indiana (“Safeco” or “Defendant”) files this *Notice of Removal*, hereby removing this action from the County Court at Law, Kaufman County, Texas to the United States District Court for the Northern District of Texas, Dallas Division. Removal is based on diversity jurisdiction because there is complete diversity between Plaintiff Trent Brown (“Plaintiff”) and Safeco, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In support of its *Notice of Removal*, Defendant respectfully shows the Court as follows:

**I.  
INTRODUCTION**

This dispute arises from Plaintiff’s claim for hail damage to his home located at 10634 Bradley Circle, Forney, Texas, (the “Property”). Plaintiff alleges that Defendant breached a policy of insurance and violated certain provisions of the Texas Insurance Code and Texas Deceptive Trade Practices Act (“DTPA”) by, among other things, failing to pay Plaintiff’s claims for damages resulting from alleged hail and wind storms.

On September 16, 2016, Plaintiff filed his Original Petition in the County Court at Law, Kaufman County, Texas. Plaintiff served Safeco with a citation and a copy of Plaintiff’s Original Petition on September 19, 2016 through its registered agent for service of process. On October 4,

2016, Defendant timely filed an answer to Plaintiff's Original Petition. This *Notice of Removal* is being filed within thirty (30) days of service of the Petition and is therefore timely filed under 28 U.S.C. §1446(b).

## **II.**

### **BASIS FOR REMOVAL**

#### **A. DIVERSITY OF CITIZENSHIP**

Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. § 1332(a). Plaintiff is a resident and citizen of Texas. *See* Plaintiff's Original Petition ¶1. Safeco is a corporation organized under the laws of the State of Massachusetts with its principal place of business in Boston, Massachusetts. As such, Safeco is citizen of Massachusetts. Accordingly, there exists complete diversity of citizenship between the parties.

#### **B. AMOUNT IN CONTROVERSY**

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff's complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiff's Original Petition that his claims exceed \$75,000.00. In paragraph 4 of the Petition, Plaintiff states that "Plaintiff currently seeks monetary relief over \$100,000 . . . ." Plaintiff's Original Petition, ¶ 4.

Therefore, removal of this action is proper under 28 U.S.C. § 1441(a). This is a civil action brought in state court, and this Court has original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332(a). In addition, Plaintiff's citizenship is diverse from Safeco. Finally, as alleged in his Petition, Plaintiff seeks to recover in excess of \$100,000.00 from Defendant. Therefore, the amount in controversy in this case clearly exceeds \$75,000.00.

**III.**  
**CONSENT TO REMOVAL UNNECESSARY**

Safeco is the only defendant named in Plaintiff's Petition, thus no additional consent is needed for removal.

**IV.**  
**COMPLIANCE WITH PROCEDURAL REQUIREMENTS**

As required by Local Rule 81.1(a), filed concurrently with this *Notice of Removal* is a completed civil cover sheet, supplemental civil case cover sheet and a signed Certificate of Interested Persons that complies with Local Rule 3.1. Additionally, the following exhibits are attached:

- **EXHIBIT A** – Index of all documents filed in state court;
- **EXHIBIT B** – Register of Actions in the state court action; and
- **EXHIBITS C-1 and C-2** – A copy of each document filed in the state court action.

Pursuant to Section 28 U.S.C. §1446(d), Defendant will give written notice of the filing of this *Notice of Removal* to all adverse parties promptly after the filing of same.

Pursuant to 28 U.S.C. §1446(d), Defendant will file a true and correct copy of this *Notice of Removal* with the District Clerk, County Court at Law, Kaufman County, Texas promptly after filing of same.

**V.**  
**CONCLUSION AND PRAYER**

Based on the foregoing, Defendant Safeco Insurance Company of Indiana respectfully requests that the above-styled action now pending in the County Court at Law, Kaufman County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division. Defendant further requests all such other and further relief to which it is justly entitled.

Respectfully submitted,

*/s/ Mark D. Tillman*

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**ATTORNEYS FOR DEFENDANT  
SAFECO INSURANCE COMPANY OF  
INDIANA**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been forwarded to Plaintiff's counsel of record via electronic means and/or facsimile on the 6th day of October, 2016, in accordance with the FEDERAL RULES OF CIVIL PROCEDURE.

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**ATTORNEYS FOR PLAINTIFF**

*/s/ Mark D. Tillman*

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